

**DOCKET NO.:** MSFT-0323/167389.01  
**Application No.:** 09/838,436

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

**Istvan Cseri, Oliver Nicolas Seeliger,  
Andrew J. Layman**

**Confirmation No.: 2254**

**Application No.: 09/838,436**

**Group Art Unit: 2144**

**Filing Date: April 19, 2001**

**Examiner: Melvin H. Pollack**

**For: Method and System for Providing an XML Binary Format**

**EXPRESS MAIL LABEL NO:  
DATE OF DEPOSIT:**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**DECLARATION PURSUANT TO 37 C.F.R. 1.131**

**I, Oliver N. Seeliger, declare and say that:**

1. I am one of the named inventors of the invention described and claimed in U.S. Patent Application No. 09/838,436 (the above-identified application, hereinafter "the '436 application"), which was filed with the United States Patent and Trademark Office on April 19, 2001.

2. As an inventor, I am familiar with the '436 application and the associated rejection alleged in the outstanding Official Action, dated June 12, 2006. I am also familiar with the reference cited by the United States Patent and Trademark Office (Girardot, Marc and Sundaresan, Neel, "Millau: an encoding format for efficient representation and exchange of XML over the Web," hereinafter "Girardot et al.") in connection with the latest Official Action.

3. I understand that the publishing date for Girardot et al. is sometime in mid-2000, as is documented in Appendix A. In one of the Office Actions, dated December 15,

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2005, for example, the *Computer Networks* 2000 publication, volume 33, Number 1-6 is given as the source of the Girardot et al. reference. This publication has a date of June 2000. The earliest *apparent* publishing date that could be found for the Girardot et al. reference was at the 9<sup>th</sup> International World Wide Web Conference, May 15-19, 2000. See Appendix A.

4. In accordance with 37 CFR § 1.131, as an inventor of the subject matter of the rejected claims, and without conceding the propriety of the outstanding rejections, I hereby declare that the other inventors and I invented the subject matter of the rejected claims prior to May 15, 2000, the earliest possible effective date of the Girardot et al. reference, and thus the other inventors and I are prior inventors.

5. Prior to May 15, 2000, the other inventors and I invented the subject of the '436 application. This is demonstrated, for example, by a functional specification. See Appendix B. This specification was created on October 27, 1999 at 2:45:00 pm, and is embodied in a "xmlbin.doc" file. The date and time of the creation of this file was determined using a "Metadata Assistant" program (sold by the "Payne Consulting Group," and available at <http://www.payneconsulting.com>). See Appendix C. However, the subject matter of the present application was invented even before this (October 27, 1999) date.

6. Next, in Appendix D, a log is provided showing evidence of diligence, starting on November 18, 1999, and continuing up to August 1, 2000, at which time SQL Server, which included the present subject matter (i.e. XML tokenization technology), was shipped.

7. Accordingly, it is my belief that the Appendices attached hereto evidences my and the other inventors' possession of the invention described in the '436 application prior to mid-2000 (whether as early as May 15, 2000 or June 2000), thereby removing Girardot et al. as an applicable reference.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information or belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or by imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application, any patent issuing there upon, or any patent to which this verified statement is directed.

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Date: 3/5/2007

  
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Oliver N. Seeliger